

**This is a declaration analyzing loss for cases being sentenced under U.S.S.G. 2F1.1. This applies to offenses completed before November 1, 2001. For offenses that continued or were completed after November 1, 2001, use the U.S.S.G. 2B1.1 declaration.**

DECLARATION OF ROBERT L. EPPES

Robert L. Eppes does hereby declare as follows:

1. I am a Special Agent employed full time with the Odometer Fraud Staff of the National Highway Traffic Safety Administration ("NHTSA") of the United States Department of Transportation. I have been employed in this capacity (with varying titles) for nine years. My office is located in Kansas City, Missouri.

2. As a Special Agent for the Odometer Fraud Staff of NHTSA, my duties and responsibilities include personally conducting investigations of odometer fraud rings, providing assistance to federal, state, and local law enforcement agencies engaged in similar investigations, and coordinating and developing odometer fraud countermeasure programs by state agencies. My area of responsibility includes 18 states in the central portion of the United States, including Texas, Louisiana, Oklahoma, Arkansas, Tennessee, Alabama, Mississippi, New Mexico, Kansas, Missouri, Nebraska, Iowa, Indiana, Ohio, Illinois, Minnesota, Wisconsin, and Michigan.

3. In fulfilling my responsibilities, I have frequent contact with several types of individuals familiar with particular aspects of odometer tampering. The types of people I encounter in this regard include other investigators and

regulatory agencies investigating or attempting to prevent odometer tampering, individuals actively involved in odometer tampering, people who knowingly or innocently purchase vehicles which have been the subject of odometer tampering, consumers who have purchased cars the odometers of which have been rolled back, and individuals involved at all levels of the automobile wholesale business, including auctions, insurance companies, banks, fleet wholesale dealers and other fleet vehicle disposal agencies.

4. I also attend annual meetings of the National Odometer and Title Fraud Enforcement Association, and attend, help organize, and speak at, annual meetings of other regional task forces engaged in combating odometer fraud. I have provided training to numerous federal, state, and local law enforcement and regulatory personnel regarding methods of combating odometer fraud. Both the national and regional meetings I refer to are attended by, among others, federal and state officials involved in enforcing odometer tampering statutes and other statutes and regulations related to odometer fraud and motor vehicle registration.

5. As a result of the activities described above, I have become familiar with the problems encountered by people who purchase vehicles with rolled odometers. I have also spoken frequently with used car wholesalers and retail dealers regarding vehicles with rolled odometers.

6. Section 2N3.1 of the United States Sentencing Commission Guidelines ("U.S.S.G.") provides that for odometer fraud, one should apply the "Fraud and Deceit" Guideline, 2F1.1 if more than one vehicle was involved in the offense, as in this case. Guideline 2F1.1 requires that an "amount of loss" be determined for the offense. The method directed by the U.S.S.G. for cases of fraud involving misrepresentation of the quality of a consumer item is to compare the purchase price to the amount for which a consumer could resell the product received. See Guideline 2F1.1, Application Note 7(a). In this case, that requires an estimation of the difference in value between consumer prices for apparent low mileage cars, and resale value of vehicles with rolled odometers whose actual mileage is not known. The records gathered in the investigation do not show the prices that all consumers paid for vehicles whose odometers were altered. However, the average retail sales price for a random sample of [ # ] cars that defendant sold with rolled odometers for which retail price was available was [\$xxxxxxx]. [In addition, consumers on average paid \$xxxxxxx in finance charges for these cars, for a total payment of \$xxxxxxx.] These prices [and finance charges] appear typical for the cars that defendant sold.

7. I have discussed odometer rollback situations similar to this case with owners or other responsible individuals at a number of the firms which have unknowingly purchased cars with

altered odometers from perpetrators of odometer fraud. They informed me that they would ordinarily not knowingly purchase a vehicle with an altered odometer. Certain firms indicated that they would purchase a vehicle with an altered odometer only at a greatly reduced price as a trade in, in order to complete the sale of another vehicle to the owner of the rolled-back vehicle. A number of firms that have sold vehicles with rolled-back odometers have also had to repurchase from consumers the vehicles sold with altered odometers, because the consumers did not want those vehicles. A consumer attempting to resell a vehicle with a rolled odometer, therefore, would be likely to obtain less than half of what he had paid for the vehicle.

8. On the basis of the above, I believe that the loss per vehicle that consumers would suffer if they attempted to resell their vehicles would amount to at least 40 to 50% of the purchase price they paid for their cars. Since the average purchase price was \$xxxxxxx, this average loss would be \$xxxxxxx to \$xxxxxxx.

9. This loss figure is based on an attempt to determine the loss per vehicle on resale. The resulting loss figure is reasonable, even if one examines losses people suffer if they do not sell these rollback vehicles. This is because there are several elements of damages that individuals suffer when they purchase a car the odometer of which has been altered. The damages begin with the purchase price and increase as time passes. The damages consumers suffer include the following:

- a. Purchase price: The difference between the purchase price of a used car with accurate mileage, and the purchase price which is inflated by a false low mileage on its odometer.<sup>1/</sup>
- b. Finance charges: Consumers pay finance charges on the portion of the higher price of a used car caused by the false low odometer reading.
- c. Insurance costs: Frequently owners of vehicles with high mileage do not insure them for collision damage, while owners of lower mileage cars do carry such insurance. The false low mileage reading thus leads owners to pay more for insurance than they would if they knew the vehicles' actual mileage. My attempts to determine the cost of collision insurance indicates that these costs could easily be \$200 - \$250 annually.
- d. Repair costs: The difference in the purchase price of low and high mileage cars theoretically reflects, among other things, anticipated repair costs to vehicles with higher mileages. However, as a practical matter many high mileage vehicles suffer serious and expensive mechanical

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<sup>1/</sup> This difference is reflected only in part in publications which list the value of used vehicles with varying amounts of mileage on them. Those publications are meant to compare low and high mileage vehicles with accurate odometers. In my experience, used car wholesalers and retailers for the most part do not want a vehicle the odometer of which has been altered (if it has to be sold with that fact acknowledged), and consumers simply do not want such a vehicle.

problems which are not reflected in purchase price differentials. Thus, owners of high mileage vehicles frequently suffer extraordinary costs to repair and maintain their vehicles that are not accounted for in differences in the cost of the vehicles, as described in paragraph "a" above.

e. Taxes: Car buyers commonly pay sales tax on the purchase price of their vehicles, and thereafter (in some jurisdictions which impose property taxes on motor vehicles) pay property taxes which are based in part on that purchase price. When the price of the vehicle is fraudulently inflated as the result of a rolled back odometer, the purchaser pays additional sales and property taxes beyond what he or she would pay if the odometer reflected the vehicle's actual mileage. The sales tax on an automobile in [name of state where most cars sold] is \_\_\_\_%.

f. Lost time: In addition to the actual cost of repairs, people suffer a loss of time associated with breakdowns and dealing with service personnel. They may also spend considerable amounts of time attempting to resolve the problems that arise with the seller if they realize they have purchased a vehicle with a rolled-back odometer. The costs of this lost time are real, including lost wages and the opportunity to spend time in other more productive pursuits.

10. I was the lead federal investigator in the case, United States v. [name of defendant]. Based on all of the above factors, and on the type of cars that defendant purchased and sold, and the amount of the mileage rollbacks involved,<sup>2/</sup> I believe that an extremely conservative estimate of losses consumer suffered per vehicle, using the figures discussed in the previous paragraph, is \$4,000.

11. Because many elements of a motor vehicle wear out with use and mileage, rather than with years, there are dangers involved in not knowing the correct mileage on a motor vehicle. Congress noted this fact in passing the laws which I am charged with enforcing, linking "an accurate indication of the mileage" traveled by a motor vehicle to its "safety and reliability". 49 U.S.C. § 32701(a)(3). The brakes, front end suspension, steering, and drive line members are particularly subject to failure as the result of mileage. Because consumers of vehicles that have been the subject of odometer rollbacks are unaware of the true mileage on their vehicles, they are less likely than people with accurate odometers to provide proper maintenance to their cars, and the cars may therefore be subject to sudden failure. In many circumstances common in everyday driving, such a failure could cause serious injury or death not only to a

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<sup>2/</sup> On average, defendant caused vehicle odometers to be rolled back approximately [ # ] miles, from [ # ] to [ # ] miles. This is based on a group of [ # ] cars for which we have both high and low mileage figures.

driver and his or her passengers, but to others on the road or nearby.

12. My investigation revealed that [name of defendant] was responsible for rolling the odometers of approximately [ # ] vehicles (\_\_% of [ # ] vehicles). [If necessary in a particular case, add: I derived this estimate as follows. In the course of this investigation, I learned that [name of defendant] used several bank accounts, several sources of financing ("floorplanning" in the jargon of the industry), and purchased and sold vehicles at various places. While the investigation revealed many of these accounts, floorplanners, and sources of vehicles, I do not believe that the investigation revealed all sources, or documentation, of vehicles defendant purchased. He purchased at least [ # ] vehicles which are recorded in documents gathered in the investigation. Based on the entire investigation, including interviews of defendant and his employees, I believe that he purchased and sold approximately [ # ] vehicles during the period [state the relevant period].]

13. I also believe that [name of defendant] caused the rollback of approximately \_\_% of the vehicles he bought and sold. My office checked for mileage discrepancies on at least [ # ] vehicles that he sold. Either I or someone acting under my direct supervision conducted one of a variety of checks to determine whether or not the vehicles were sold with accurate



mileage.<sup>3/</sup> These checks showed mileage discrepancies on [ # ] of the [ # ] vehicles, which is a \_\_\_% discrepancy or rollback rate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_.

\_\_\_\_\_  
Robert L. Eppes  
Special Agent  
Odometer Fraud Staff  
National Highway Traffic  
Safety Administration  
United States Department of  
Transportation

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<sup>3/</sup> The checks for mileage discrepancies were accomplished by comparing mileage available from state registration files or title histories showing mileage after defendant's organization sold the vehicles to other evidence of mileage on the vehicles before defendant acquired them. The comparisons were done by me or someone acting under my direct supervision. My office checked for "pre-defendant" mileage by examining documents obtained from persons who sold to defendant, or obtained from their financial institutions, mileages stored in a computer system used to track vehicle titles and mileages, other title history documents, or by orally contacting an owner prior to defendant to inquire as to the mileage at which the vehicle was sold to defendant. In all cases the identity of the vehicles were verified by "VIN", or vehicle identification numbers, which are unique to each vehicle.